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Food & Consumer Packaged Goods Litigation

# Court Rains on Plaintiff's Vitamin Drink Suit Parade

*Maple v. Costco Wholesale Corp.*, No. 12cv5166 (E.D. Wash.): The court has dismissed without leave to amend the plaintiff's amended complaint in a matter alleging that VitaRain Tropical Mango Vitamin Enhanced Water Beverage ("VitaRain"), bottled by Niagara Bottling and sold by Costco, lacked proper disclosures. The complaint charged that the drink packaging failed to disclose that the beverage contained caffeine; failed to disclose the relative amount of caffeine in the beverage; and falsely claimed that the beverage was a "natural tonic" containing "natural caffeine." The court held that the allegation that the name "VitaRain" falsely conveyed that the drink is "nutritional, healthy and full of vitamins only" was implausible because the name "VitaRain" was itself "nonsensical." Additionally, the court found that the complaint failed to plead that the drink truly was unhealthy, or to specify what statements the plaintiff actually read on the label. [Order](#).

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